

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: November 17, 2023

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HELENA JOHNSON, * UNPUBLISHED

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Petitioner, * No. 20-1030V

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v. * Special Master Dorsey

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SECRETARY OF HEALTH * Ruling on Entitlement; Concession;
AND HUMAN SERVICES, * Table Injury; Influenza (“Flu”) Vaccine;

* Shoulder Injury Related to Vaccine

Respondent. * Administration (“SIRVA”).

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David John Carney, Green & Schafle LLC, Philadelphia, PA, for Petitioner.

Catherine Elizabeth Stolar, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On August 17, 2020, Helena Johnson (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”)² alleging that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered on October 9, 2017. Petition at Preamble (ECF No. 1). On October 22, 2020, Petitioner filed an amended petition alleging that her October 9, 2017 flu vaccination caused her to develop the “Table injury of brachial neuritis and/or brachial plexus” or, in the alternative, a Table SIRVA. Amended (“Am.”) Petition at 1, 6 (ECF No. 14).

¹ Because this Ruling contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc> in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2018). All citations in this Ruling to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

On November 13, 2023, Respondent filed an amended Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Am. Respondent's Report ("Resp. Rept.") at 2. Based on a review of the record, Respondent states that "[P]etitioner's alleged injury is consistent with SIRVA as defined by the Vaccine Injury Table." Id. at 9. Further, based on the medical records, "[P]etitioner suffered the residual effects of her condition for more than six months." Id. Therefore, "[P]etitioner has satisfied all legal prerequisites for compensation under the Act." Id. at 9-10.

A special master may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. § 300aa-13; Vaccine Rule 8(d). In light of Respondent's concession and a review of the record, the undersigned finds Petitioner is entitled to compensation. This matter will now proceed to the damages phase.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Special Master